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Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount Mailroom Date	Payment Method
01/30/2004	00000057	<u>1</u>	<u>8021</u>	\$40.00 01/29/2004	CK
02/02/2004	00000013	<u>1</u>	<u>1051</u>	\$130.00 01/29/2004	CK
02/02/2004	00000014	1	<u>1001</u>	\$770.00 01/29/2004	CK
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02/02/2004	00000016	1	1202	\$2,106.00 01/29/2004	CK
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Registered Representative

Signature

Date of Signature

Case No. 11867/23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DATE

In re Application of:

August J. Borschke et al.

Serial No.:

10/675,577

Attention: Manager, Application Branch

Filed:

September 30, 2003

For:

Smokable Rod for a

Cigarette

REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26 OF OVERCHARGE OF EXCESS CLAIM FEES UNDER 37 C.F.R. § 1.16(c)

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

In the Notice to File Missing Parts mailed December 24, 2003, it is noted that the application included 117 total claims over 20. Applicants have paid the total fee due associated with that stated number of excess claims.

However, Applicants submit that this number is in error and, in fact, Applicants count only 107 total claims over 20 in the present application as-filed. (Applicants count 127 claims in total comprised of claims numbered 1-91 and 36 recited multiple dependencies). Accordingly, Applicants request a refund of the overcharge for 10 claims at \$18 per claim, for a total refund of \$180.

Please credit Deposit Account No. 23-1925 with this overpayment. A duplicate copy of this Request is enclosed.

Respectfully submitted,

F.A.

Dated: 1-26-04

Marc V. Richards Registration No. 37,921 Attorney for Applicant(s)

BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610 (312)321-4200

CLAIMS

What is claimed is:

- 1. A smokable rod for a cigarette comprising:
 - (a) a lighting end and a mouth end;
- (b) a longitudinally extending core portion incorporating a smokable material composed predominantly of tobacco;
- (c) a longitudinally extending outer portion circumscribing the core portion in an annular manner, the outer portion (i) being physically separate from the core portion, (ii) incorporating tobacco material in intimate contact with a burn suppressing agent, and (iii) being composed predominantly of tobacco material and aerosol forming material; and
 - (d) an outer wrapping material circumscribing the outer portion.
- 2. The rod of Claim 1 further comprising a wrapping material for the core portion, said wrapping material physically separating the core portion from the outer portion.
- 3. The rod of Claim 1 or 2 having a mouth end piece attached to the mouth end thereof.
- 4. The rod of Claim 1 having a cylindrical shape, the rod having a longitudinally extending outer surface, the outer wrapping material providing the longitudinally extending outer surface, and the lighting end and mouth end each being open to expose the core and outer portions.
- 5. The rod of Claim 1 further comprising a wrapping material for the core portion, said wrapping material physically separating the core portion from the outer portion longitudinally along the rod, the lighting end and mouth end each being open to expose the core and outer portions.

- 6. The rod of Claim 4 or 5 having a mouth end piece attached to the mouth end thereof.
- 7. The rod of Claim 1, 2, 4 or 5 wherein the aerosol forming material includes glycerin.
- 8. The rod of Claim 1, 2, 4 or 5 wherein the outer wrapping material is composed of paper.
- 9. The rod of Claim 2 or 5 wherein the wrapping material for the core portion is composed of paper.
- 10. The rod of Claim 1, 2, 4 or 5 wherein the outer wrapping material exhibits an inherent porosity of at least about 15 CORESTA units.
- 11. The rod of Claim 2 or 5 wherein the wrapping material for the core portion exhibits an inherent porosity of more than about 100 CORESTA units.
- 12. The rod of Claim 1 or 2 wherein essentially all of the smokable tobacco material is composed of tobacco in cut filler form.
- 13. The rod of Claim 1 or 2 wherein essentially all of the smokable tobacco material is composed of tobacco laminae, processed tobacco, or a blend thereof.
- 14. The rod of Claim 12 wherein at least a portion of the tobacco is cased and/or top dressed.
- 15. The rod of Claim 13 wherein at least a portion of the smokable tobacco material is cased and/or top dressed.
- 16. The rod of Claim 13 wherein the processed tobacco is composed of essentially all tobacco.

- 17. The rod of Claim 1 or 2 wherein the tobacco material of the outer portion is composed of essentially all tobacco.
- 18. The rod of Claim 17 wherein the tobacco material of the outer portion is in intimate contact with at least one salt exogenous to that tobacco material.
- 19. The rod of Claim 1 or 2 wherein the tobacco material of the outer portion is in intimate contact with at least one salt exogenous to that tobacco material.
- 20. The rod of Claim 1 or 2 wherein the tobacco material of the outer portion is a substrate for the aerosol forming material.
- 21. The rod of Claim 19 wherein the exogenous salt includes an alkali metal salt of a carboxylic acid.
- 22. The rod of Claim 1 wherein more than 60 percent by weight of outer portion is composed of tobacco material and aerosol forming material.
- 23. The rod of Claim 1 or 2 wherein, upon use, the core portion is burned from the lighting end toward the mouth end, and a majority of the outer portion undergoes smolder.
- 24. The rod of Claim 1 or 2 wherein the outer portion incorporates processed tobacco, and the processed tobacco is absent of exogenous inorganic filler material.
- 25. The rod of Claim 1 or 2 wherein the outer portion incorporates processed tobacco, the processed tobacco being absent of exogenous inorganic filler material, and the processed tobacco being composed of more than 90 percent by weight of tobacco, aerosol forming material, exogenous salt and binder.
- 26. The rod of Claim 25 wherein the aerosol forming material includes glycerin and the binder includes an alginate or guar gum.

- 27. A smokable rod for a cigarette comprising:
 - (a) a lighting end and a mouth end;
- (b) a longitudinally extending outer portion circumscribing a core portion in an annular manner, the outer portion being composed predominantly of tobacco;
- (c) a longitudinally extending core portion incorporating a smokable material, the core portion (i) being physically separate from the outer portion, (ii) incorporating tobacco material in intimate contact with a burn suppressing agent, and (iii) being composed predominantly of tobacco material and aerosol forming material;
- (d) the outer portion being physically separate from the core portion; and
 - (e) an outer wrapping material circumscribing the outer portion.
- 28. The rod of Claim 27 further comprising a wrapping material for the core portion, said wrapping material physically separating the core portion from the outer portion.
- 29. The rod of Claim 27 or 28 having a mouth end piece attached to the mouth end thereof.
- 30. The rod of Claim 27 having a cylindrical shape, the rod having a longitudinally extending outer surface, the outer wrapping material providing the longitudinally extending outer surface, and the lighting end and mouth end each being open to expose the core and outer portions.
- 31. The rod of Claim 27 further comprising a wrapping material for the core portion, said wrapping material physically separating the core portion from the outer portion longitudinally along the rod, the lighting end and mouth end each being open to expose the core and outer portions.
- 32. The rod of Claim 30 or 31 having a mouth end piece attached to the mouth end thereof.

- 33. The rod of Claim 27, 28 or 30 wherein the aerosol forming material includes glycerin.
- 34. The rod of Claim 27, 28 or 30 wherein the outer wrapping material is composed of paper.
- 35. The rod of Claim 27 wherein the wrapping material for the core portion is composed of paper.
- 36. The rod of Claim 27 or 28 wherein the outer wrapping material exhibits an inherent porosity of at least about 15 CORESTA units.
- 37. The rod of Claim 27 or 28 wherein the wrapping material for the core portion exhibits an inherent porosity of more than about 100 CORESTA units.
- 38. The rod of Claim 27 or 28 wherein essentially all of the smokable tobacco material is composed of tobacco in cut filler form.
- 39. The rod of Claim 27 or 28 wherein essentially all of the smokable tobacco material is composed of tobacco laminae, processed tobacco, or a blend thereof.
- 40. The rod of Claim 39 wherein at least a portion of the smokable tobacco material is cased and/or top dressed.
- 41. The rod of Claim 39 wherein the processed tobacco is composed of essentially all tobacco.
- 42. The rod of Claim 27 or 28 wherein the tobacco material of the inner core portion is composed of essentially all tobacco.
- 43. The rod of Claim 27 or 28 wherein the tobacco material of the inner core portion is in intimate contact with at least one salt exogenous to that tobacco material.

- 44. The rod of Claim 43 wherein the exogenous salt includes an alkali metal salt of a carboxylic acid.
- 45. The rod of Claim 27 wherein more than 60 percent by weight of inner core portion is composed of tobacco material and aerosol forming material.
- 46. The rod of Claim 27 or 28 wherein, upon use, the outer portion is burned from the lighting end toward the mouth end, and a majority of the outer portion undergoes smolder.
- 47. The rod of Claim 27 or 28 wherein the inner core portion incorporates processed tobacco, and the processed tobacco is absent of exogenous inorganic filler material.
- 48. The rod of Claim 27 or 28 wherein the inner core portion incorporates processed tobacco, the processed tobacco being absent of exogenous inorganic filler material, and the processed tobacco being composed of more than 90 percent by weight of tobacco, aerosol forming material, exogenous salt and binder.
- 49. The rod of Claim 48 wherein the aerosol forming material includes glycerin and the binder includes an alginate or guar gum.
 - 50. A smokable rod for a cigarette comprising:
 - (a) a lighting end and a mouth end;
- (b) an inner portion incorporating a smokable material composed predominantly of tobacco and aerosol forming material; the aerosol forming material in intimate contact with a processed tobacco material that is processed such that at least a portion of a solvent soluble portion of the tobacco material is removed therefrom and such that the processed tobacco material is a substrate for the aerosol forming material; the smokable material being in intimate contact with a burn suppressing agent; and
 - (c) an outer wrapping material circumscribing the inner portion.

- 51. The rod of Claim 50 having a cylindrical shape, the rod having a longitudinally extending outer surface, the outer wrapping material providing the longitudinally extending outer surface, and the lighting end and mouth end each being open to expose the inner portion.
- 52. The rod of Claim 51 having a mouth end piece attached to the mouth end thereof.
- 53. The rod of Claim 50 wherein the aerosol forming material includes glycerin.
- 54. The rod of Claim 51 wherein the outer wrapping material is composed of paper.
- 55. The rod of Claim 51 wherein the outer wrapping material exhibits an inherent porosity of at least about 15 CORESTA units.
- 56. The rod of Claim 50 wherein essentially all of the smokable tobacco material is composed of tobacco in cut filler form.
- 57. The rod of Claim 50 wherein essentially all of the smokable tobacco material is composed of tobacco laminae, processed tobacco, or a blend thereof.
- 58. The rod of Claim 57 wherein at least a portion of the tobacco material is cased and/or top dressed.
- 59. The rod of Claim 57 wherein the processed tobacco is composed of essentially all tobacco.
- 60. The rod of Claim 57 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 5 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.

- 61. The rod of Claim 57 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 10 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 62. The rod of Claim 57 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 15 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 63. The rod of Claim 57 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 20 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 64. The rod of Claim 57 further including aerosol forming material that has been applied to at least a portion of the smokable material in the form of a spray.
- 65. The rod of Claim 57 wherein a portion of the smokable material further includes a material composed primarily of aerosol forming material.
 - 66. A smokable rod for a cigarette comprising:
 - (a) a lighting end and a mouth end;
- (b) smokable material composed primarily of tobacco material and aerosol forming material;
- (c) at least a portion of the tobacco material acting as a substrate for the aerosol forming material;
- (d) at least a portion of the tobacco material being in intimate contact with a burn suppressing agent; and
- (e) a wrapping material circumscribing the smokable material, the wrapping material having an inherent porosity of at least about 15 CORESTA units.

- 67. The rod of Claim 66 having a cylindrical shape, the rod having a longitudinally extending outer surface, the outer wrapping material providing the longitudinally extending outer surface, and the lighting end and mouth end each being open to expose the inner portion.
- 68. The rod of Claim 66 having a mouth end piece attached to the mouth end thereof.
- 69. The rod of Claim 66 wherein the aerosol forming material includes glycerin.
- 70. The rod of Claim 66 wherein the outer wrapping material is composed of paper.
- 71. The rod of Claim 66 wherein the outer wrapping material exhibits an inherent porosity of at least about 20 CORESTA units.
- 72. The rod of Claim 66 wherein essentially all of the smokable tobacco material is composed of tobacco in cut filler form.
- 73. The rod of Claim 66 wherein essentially all of the smokable tobacco material is composed of tobacco laminae, processed tobacco, or a blend thereof.
- 74. The rod of Claim 73 wherein at least a portion of the tobacco material is cased and/or top dressed.
- 75. The rod of Claim 74 wherein the processed tobacco is composed of essentially all tobacco.
- 76. The rod of Claim 66 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 5 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.

- 77. The rod of Claim 66 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 10 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 78. The rod of Claim 66 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 15 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
 - 79. A smokable rod for a cigarette comprising:
 - (a) a lighting end and a mouth end;
- (b) an inner portion incorporating a smokable material composed predominantly of tobacco and aerosol forming material; at least a portion of the smokable material being in intimate contact with the aerosol forming material; and at least a portion of the smokable material being in intimate contact with a burn suppressing agent; and
 - (c) an outer wrapping material circumscribing the inner portion.
- 80. The rod of Claim 79 having a cylindrical shape, the rod having a longitudinally extending outer surface, the outer wrapping material providing the longitudinally extending outer surface, and the lighting end and mouth end each being open to expose the inner portion.
- 81. The rod of Claim 79 having a mouth end piece attached to the mouth end thereof.
- 82. The rod of Claim 79 wherein the aerosol forming material includes glycerin.
- 83. The rod of Claim 79 wherein the outer wrapping material is composed of paper.

- 84. The rod of Claim 79 wherein the outer wrapping material exhibits an inherent porosity of at least about 20 CORESTA units.
- 85. The rod of Claim 79 wherein essentially all of the smokable tobacco material is composed of tobacco in cut filler form.
- 86. The rod of Claim 79 wherein essentially all of the smokable tobacco material is composed of tobacco laminae, processed tobacco, or a blend thereof.
- 87. The rod of Claim 86 wherein at least a portion of the tobacco material is cased and/or top dressed.
- 88. The rod of Claim 87 wherein the processed tobacco is composed of essentially all tobacco.
- 89. The rod of Claim 79 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 5 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 90. The rod of Claim 79 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 10 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.
- 91. The rod of Claim 79 wherein the aerosol forming material is present within the smokable rod in an amount of at least about 15 percent, based on the dry weight of the tobacco material and aerosol forming material within the smokable rod.